

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**KONINKLIJKE PHILIPS ELECTRONICS
N.V. and U.S. PHILIPS CORPORATION,**

Plaintiffs,

v.

**CINRAM INTERNATIONAL INC.,
CINRAM INC., CINRAM
MANUFACTURING INC., and John Does
No. 1 through 100,**

Defendants.

Civil Action No.
08 CV 00515 (RGS)

ECF Case

**PHILIPS' MOTION FOR AN EXTENSION OF TIME TO OPPOSE
CINRAM'S MOTIONS FOR SUMMARY JUDGMENT
OF INVALIDITY AND NON-INFRINGEMENT**

The Philips Plaintiffs respectfully request that the Court grant an extension of time for Philips to respond to Cinram's Motions for Summary Judgment of Invalidity and Non-Infringement until September 7, 2010 (the responses are currently due August 16, 2010). Philips requests this extension because its experts, Dr. Paul Prucnal and Robert Freedman, each have vacations planned at different times during the month of August and will have limited ability to assist Philips in preparing its responses, and to be available to Philips at the same time. Also, Cinram's motions are highly technical and Philips is still considering its strategy for responding to them. Philips may decide to engage additional experts, and may seek a declaration from the inventors or others. All of this takes time and is particularly difficult in August, when many people vacation. The inventors are also retired, elderly, and located in The Netherlands.

Philips' counsel initially asked Cinram's counsel to consent to a two-week extension of time. Cinram's counsel initially offered a longer extension, to September 3, but conditioned its consent to any extension on Philips' agreement to file "actual" oppositions and not seek a

continuance under Fed. R. Civ. P. 56(f). (Bass Decl. 3, 4, Ex. A.) Philips tried to bargain for an extension without any conditions and explained that its experts will be on vacation, but Cinram insisted on the condition. Philips' counsel then sent a draft of this motion to Cinram's counsel and stated that Philips would file the motion unless Cinram consented to an extension of time without conditions. (Bass Decl. Ex. B.) Cinram's counsel then suggested that Cinram may consent to an even longer extension, to September 7, but only if Cinram is satisfied that Philips needs the additional time. Philips continued to try to convince Cinram to consent to the extension without conditions, but Cinram refused to do so. (Bass Decl. Ex. C, D.) Philips now believes that an extension of time to September 7 is needed to respond to the motions.

Philips is not currently in a position to decide whether to invoke Fed. R. Civ. P. 56(f), and therefore cannot accept Cinram's initial condition. Philips may not invoke Rule 56(f), but does not want to be forced to make that decision, at this moment, so that Cinram will consent at this moment. Cinram's position also seems designed to push Philips to reveal its strategy, or to decide its strategy prematurely. Cinram will not consent to the motion unless Philips identifies discovery it needs and particular experts' vacation schedules. Philips is not yet ready to identify such discovery (or to decide whether it needs any discovery to respond to the motions), and may or may not decide to engage experts who Cinram is not yet aware of. Again, Philips does not want to make these decisions at this moment so that Cinram will consent at this moment. Cinram's position also seems designed to push Philips into a corner, such that if Philips decides to invoke Rule 56(f) in response to either motion for summary judgment, Cinram will argue that Philips could have had such discovery and should instead have provided a substantive response on the due date for the responses to the motions.

Philips therefore respectfully requests that the Court grant an extension of time for Philips to respond to Cinram's Motions for Summary Judgment of Invalidity and Non-Infringement until September 7, 2010. Cinram is expected to oppose this motion.

Date: August 3, 2010

/s/ Samuel C. Bass

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CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2010, a copy of the foregoing **PHILIPS' MOTION FOR AN EXTENSION OF TIME TO OPPOSE CINRAM'S MOTIONS FOR SUMMARY JUDGMENT OF INVALIDITY AND NON-INFRINGEMENT** was served by email on the following attorneys for Defendants, addressed as follows:

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